

House Bill 640

By: Representatives Benton of the 31st, Bearden of the 68th, England of the 108th, Hatfield of the 177th, and McCall of the 30th

A BILL TO BE ENTITLED
AN ACT

To amend Article 1 of Chapter 3 of Title 50 of the Official Code of Georgia Annotated, relating to state and other flags, so as to provide certain protections for statues, monuments, plaques, banners, structures, and other commemorative symbols; to provide certain requirements for several government entities regarding statues, monuments, plaques, banners, structures, and other commemorative symbols; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 3 of Title 50 of the Official Code of Georgia Annotated, relating to state and other flags, is amended by revising subsection (b) of Code Section 50-3-1, relating to the description of the state flag and defacing public monuments, as follows:

"(b)(1) It shall be unlawful for any person, firm, corporation, or other entity to mutilate, deface, defile, or abuse contemptuously any publicly owned statue, monument, plaque, marker, flag, banner, structure name, display, or memorial which is located on real property owned by the State of Georgia or any of its departments, boards, commissions, authorities, or instrumentalities, or any county or municipal government or their departments, boards, commissions, or authorities, local boards of education, the board of regents, or any institution at the University System of Georgia dedicated to a historical entity, event or series of events, nation, or government, and which honors; or recounts the military service or other service of any past or present military personnel or citizen of this state, the United States of America or the several states thereof, or the Confederate States of America or the several states thereof, and no officer, body, or representative of state or local government, county or municipal government, local board of education, the board of regents, or any institution of the University System of Georgia or any department, agency, authority, or instrumentality thereof shall remove or conceal from display any such monument, plaque, marker, flag, banner, building name, display, or

1 memorial for the purpose of preventing the visible display of the same. A violation of
2 this paragraph shall constitute a misdemeanor.

3 (2) No publicly owned statue, monument, or memorial, plaque, marker, flag, banner,
4 structure name, or display erected, constructed, created, or maintained on ~~the public~~ real
5 property owned by the State of Georgia ~~of this state~~ or its agencies, departments,
6 authorities, or instrumentalities, or any county or municipal government, local board of
7 education, the board of regents, or any institution of the University System of Georgia
8 which is dedicated to a historical entity, event or series of events, nation, or government,
9 or which honors or recounts the military service or other service ~~in honor of the military~~
10 ~~service~~ of any past or present military personnel or citizen of this state, the United States
11 of America or the several states thereof, or the Confederate States of America or the
12 several states thereof shall be relocated, removed, concealed, obscured, or altered in any
13 fashion by any officer, body, or representative of any county or municipal government,
14 local board of education, the board of regents, or any institution of the University System
15 of Georgia or any of such entities' respective departments, boards, commissions,
16 authorities, or instrumentalities; provided, however, that appropriate measures for the
17 preservation, protection, and interpretation of such monuments or memorials shall not be
18 prohibited.

19 (3) Conduct prohibited by paragraphs (1) and (2) of this subsection shall be enjoined by
20 the appropriate superior court upon proper application therefor.

21 (4) ~~It~~ With exception of the lawful owners of real property housing any privately owned
22 property protected by this subsection, it shall be unlawful for any person, firm,
23 corporation, or other entity acting without authority to mutilate, deface, defile, abuse
24 contemptuously, relocate, remove, conceal, or obscure any privately owned statue,
25 monument, plaque, marker, flag, banner, structure name, display, or memorial which is
26 located on privately owned real property and which is dedicated to, honors, or recounts
27 the military service or other service of any past or present military personnel or citizen
28 of this state, the United States of America or the several states thereof, or the Confederate
29 States of America or the several states thereof. Any person or entity who suffers injury
30 or damages as a result of a violation of this paragraph may bring an action individually
31 or in a representative capacity against the person or persons committing such violations
32 to seek injunctive relief and to recover general and exemplary damages sustained as a
33 result of such person's or persons' unlawful actions.

34 (5) Nothing in this Act shall prevent the state, county, or municipal governments,
35 including their departments, boards, commissions, authorities, or instrumentalities, or an
36 institution of the University System of Georgia from relocating statues, monuments,
37 plaques, markers, flags, banners, or displays described in this Code section provided such

1 relocations are required for the construction or expansion or other alteration of edifices,
2 buildings, roads, streets, highways, or other transportation construction project or
3 projects. Any statue, monument, plaque, marker, flag, banner, or display relocated
4 pursuant to this Code section shall be relocated to a site of similar prominence, honor,
5 visibility, availability, and access within the same jurisdiction from which it is to be
6 moved and such statue or historic symbol shall not be relocated to a museum, cemetery,
7 or mausoleum, unless its original location was within a cemetery, museum, or
8 mausoleum."

9 **SECTION 2.**

10 All laws and parts of laws in conflict with this Act are repealed.